

REMARKS/ARGUMENTS

In the Office Action mailed April 20, 2007, the Office Action rejected claims 1-18 under 35 U.S.C. § 102. Claims 1-18 are pending in the present application.

Applicants respectfully respond to the Office Action.

I. Claims 1-18 Rejected Under 35 U.S.C. § 102(e)

The Office Action rejected claims 1-18 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,920,555 to Peters et al. (hereinafter, "Peters"). This rejection is respectfully traversed.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." MPEP § 2131 (citing Verdegaal Bros. v. Union Oil Co. of California, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)). "The identical invention must be shown in as complete detail as is contained in the ... claim." Id. (citing Richardson v. Suzuki Motor Co., 9 USPQ2d 1913, 1920 (Fed. Cir. 1989)). In addition, "the reference must be enabling and describe the applicant's claimed invention sufficiently to have placed it in possession of a person of ordinary skill in the field of the invention." In re Paulsen, 31 USPQ2d 1671, 1673 (Fed. Cir. 1994).

Applicants respectfully submit that the claims at issue are patentably distinct from Peters. Peters does not disclose all of the limitations in these claims.

Claim 1 recites "using an imaging tool to write the image to the hard drive of the computer system, wherein the imaging tool uses a temporary file system to access the image, wherein the temporary file system is transparent to the imaging tool and wherein the temporary file system is not the file system of the hard drive." Applicants respectfully submit that Peters does not disclose this claim element.

Peters does not disclose a "temporary file system [that] is transparent to the imaging tool." Instead, Peters states:

A first step provides a migration content storage partition in the computer system; this partition will hold migration content such as user settings that are

being migrated from an old operating system to an upgraded or new operating system on the computer

Peters, Col. 2, lines 20-25.

Peters thus discloses that a migration content storage partition to hold migration content is created in the computer system. Peters further discloses that the migration content includes user settings to be migrated. The creation of a migration content storage partition is not a “temporary file system [that] is transparent to the imaging tool” as suggested by the Office Action. Instead, the creation of a migration content storage partition is simply the defining of a specific area within the hard disk to hold the migration content. This cited portion of Peters does not disclose that the migration content storage partition is transparent to an imaging tool. In fact, this cited portion of Peters does not disclose that the migration content storage partition is transparent to anything. This cited portion of Peters does not disclose any relationship between an imaging tool and the migration content storage partition. Furthermore, the above cited portion of Peters does not even mention the use of an imaging tool. Peters discloses that the “partition is provided using a partition manipulation tool.” (Col. 2, lines 25-26). The partition manipulation tool of Peters is not an imaging tool.

Peters also states: “A fourth major step then uses the migration tool to restore migration content from the migration content storage partition.” (Col. 2, lines 55-57). Peters thus discloses that the migration content is restored from the migration content storage partition using a migration tool. The migration content is “migrated from an old operating system to an upgraded or new operating system on the computer.” (Col. 2, lines 23-25). The migration content is saved using “a migration tool, such as the IBM System Migration Assistant software.” (Col. 2, lines 43-44). “Imaging is accomplished using an imaging tool, such as the PowerQuest Drive Image® Pro software.” (Col. 2, lines 50-52). Because Peters makes use of both a migration tool and an imaging tool, the migration tool used by Peters is not an imaging tool. Therefore, “[a] fourth major step then uses the migration tool to restore migration content from the migration content storage partition” does not disclose the use of an imaging tool.

Peters’ use of a migration tool to restore migration content from a migration content storage partition does not disclose a “temporary file system [that] is transparent to the imaging tool” as

suggested by the Office Action. As with the previous cited portion of Peters, this cited Portion of Peters does not even mention a relationship between an imaging tool and a temporary file system, nor does it disclose that such a relationship is transparent.

Peters also states: "With further attention now to FIG. 2, during a user profile restoring step 212 the migration content is read back from its temporary storage location and applied to the newly image partition(s)." (Col. 8, lines 36-38). "The step 212 proceeds generally in accordance with uses of the migration tool in other contexts." (Col. 8, lines 43-44). Peters thus discloses that the migration tool restores the migration content from a temporary storage location and applies it to the newly imaged partitions. The migration content is "migrated from an old operating system to an upgraded or new operating system on the computer." (Col. 2, lines 23-25). As discussed above, the migration tool used by Peters is not the same as the imaging tool used by Peters. Therefore, "[w]ith further attention now to FIG. 2, during a user profile restoring step 212 the migration content is read back from its temporary storage location and applied to the newly image partition(s)" does not disclose the use of an imaging tool.

Peters' use of a migration tool to restore migration content from a temporary storage location to newly imaged partitions does not disclose a "temporary file system [that] is transparent to the imaging tool" as suggested by the Office Action. As with the previous cited portions, this cited portion of Peters does not even mention a relationship between an imaging tool and a temporary file system nor does it disclose that such a relationship is transparent.

For the above reasons, Applicants respectfully submit that Peters does not disclose a "temporary file system [that] is transparent to the imaging tool."

In view of the foregoing, Applicants respectfully submit that claim 1 is patentably distinct from Peters. Accordingly, Applicants respectfully request that the rejection of claim 1 be withdrawn.

The Office Action rejected Claims 2-9 under 35 U.S.C. § 102 based on Peters. This rejection is respectfully traversed. It is well settled that if an independent claim is patentable over the cited art, then all claims depending from the independent claim are similarly patentable. M.P.E.P. § 2143.03 ("If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is

nonobvious”). In this case claims 2-9 depend either directly or indirectly from claim 1. As noted above, claim 1 is patentable and nonobvious over Peters. Accordingly, as the independent claim is patentable over this reference, dependent claims 2-9 (which depend from independent claim 1) are similarly allowable. Favorable consideration and withdrawal of this rejection is respectfully requested.

Claim 10 recites “writing the image to the hard drive of the computer system using an imaging tool, wherein the imaging tool uses a temporary file system to access the image, wherein the temporary file system is transparent to the imaging tool and wherein the temporary file system is not the file system of the hard drive.” As argued above with respect to claim 1, Peters does not teach or suggest this claim limitation. Accordingly, Applicants respectfully requests that the rejection of claim 10 be withdrawn for at least the same reasons as those presented above in connection with claim 1.

Claims 11-14 depend either directly or indirectly from claim 10. Accordingly, Applicants respectfully request that the rejection of claims 11-14 be withdrawn for the same reasons as those presented in connection with claim 10 because Peters does not disclose all of the elements of claim 10.

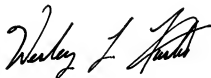
Claim 15 recites “writing the image to the hard drive of the target computer system using an imaging tool, wherein the imaging tool uses a temporary file system to access the image, wherein the temporary file system is transparent to the imaging tool and wherein the temporary file system is not the file system of the hard drive.” As argued above with respect to claim 1, Peters does not disclose this claim limitation. Accordingly, Applicants respectfully requests that the rejection of claim 15 be withdrawn for at least the same reasons as those presented above in connection with claim 1.

Claims 16-18 depend either directly or indirectly from claim 15. Accordingly, Applicants respectfully request that the rejection of claims 16-18 be withdrawn for the same reasons as those presented in connection with claim 15 because Peters does not disclose all of the elements of claim 15.

II. Conclusion

Applicants respectfully assert that all pending claims are patentably distinct from the cited references, and request that a timely Notice of Allowance be issued in this case. If there are any remaining issues preventing allowance of the pending claims that may be clarified by telephone, the Examiner is requested to call the undersigned.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Wesley L. Austin". The signature is fluid and cursive, with the first name "Wesley" being more prominent and the last name "Austin" written in a smaller, more compact script.

/Wesley L. Austin/

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